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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,067	09/17/2001	Antonio Mugica	38146	1267
29569	7590	11/13/2003	EXAMINER	
JEFFREY FURR 253 N. MAIN STREET JOHNSTOWN, OH 43031			PATEL, RAMESH B	
			ART UNIT	PAPER NUMBER
			2121	10

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,067

Applicant(s)

MUGICA ET AL.

Examiner

Ramesh B. Patel

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Response to the Amendment

1. Claims 7-12 are presented for examination. Claims 1-6 have been canceled due to the amendment filed on 10/28/2003.

Claim Objections

2. Claims 7 and 10 objected to because of the following informalities:

Claims 7 and 10, lines 6 and 8 respectively, include terms "interconnected forming" should be "interconnecting for forming".

Claim 7, line 4, include terms "comprising of a" should be "comprising".

Claim 7, line 1, includes the terms "What is claimed is:" is not a part of the claim language and should not be included in line 1 of the claim 7, rather it should be stated in the line before claim 7.

Claim 7, line 1, the term "a control system" with the starting of claim 7, should be "A control system" to replace capital letter "A"; usually the starting of the claim is the only place capital letter is appropriate.

Claim 10, lines 6-7, include terms "comprising of a" should be "comprising".

Claim 10, line the terms "for to implement" should be "method for implementing"

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 12 recites the limitation "said control tissue or controllers of complexity..." in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. Also, claimed language presented in claims 9 and 12 appears to inappropriate and/or missing some terms, it is not to clear as to what is meant in the stated language. Applicant is requested to review all claims and make appropriate correction as required.

Regarding claims 9 and 12, line 4, the phrase "or the like" and/or "like said control cells" and/or "for example" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-12 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. Claims 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Fung (US Patent 6,079,025).

As to claims 7 and 10, Fung teaches the invention including a control system and a method for implementing any control system, comprising: a plurality of control cells is taught as a plurality of controllers and peripheral devices connected to a computer system (see, figure 1 and col. 4, lines 35-58); a data connection means between said control cells is taught as the plurality of controllers are connected with each other with bus (see, figure 1 and col. 4, lines 35-58); said control cells are network nodes that are physically identical and comprising processing means, a memory means and a communications means (see, abstract and figure 1 and col. 14, lines 35-58); said control cells are interconnected for forming a control organ as shown in figure 1 which shows plurality of control cells are connected in to form a complex unit or a organ (see, abstract and figure 1); said control cells can be configured for specific operations and a plurality of control cells may collaborate in the fulfillment a task is taught as the

Art Unit: 2121

computer system for a activity sensing and power reduction and conservation apparatus having computer system has resources including a processor, a memory and an input/output device and an operating system for controlling resources (see, abstract).

As to claims 8 and 11, Fung teaches the control system and the method further comprising a plurality of control cells working in unison to form a complex unit is taught as and as shown in figure 1 which shows plurality of control cells are connected to form a complex unit (see, abstract and figure 1).

As to claims 9 and 12, Fung teaches the control system and the method further comprising said control cells which can communicate across said network and at a logic level is taught as computer is connected to a plurality of control cells as plurality of controllers and peripheral devices through bus to form network for communicating with each other (see, abstract and col. 4, lines 35-58).

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2121

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh B. Patel whose telephone number is 703-308-6673. The examiner can normally be reached on M-Th; 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anil Khatri can be reached on 703-305-0282. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-305-3718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Ramesh B. Patel
Primary Examiner
Art Unit 2121

November 10, 2003